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GAS & MINING



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MEMORANDUM

TO: KENNETH E. MAY, Associate Director
Division of Oil, Gas and Mining

FROM: BARBARA W. ROBERTS
Assistant Attorney General

DATE: August 5, 1986

RE: Board Action Requested for Silver Reef Mine
ACT/053/022, Washington County, Utah

I have received a package of material concerning the Silver Reef Mine along with verbal instructions from Jan Brown that the Division would like to bring this matter before the Board at its September hearing. I have attached a copy of Utah Code Ann. §40-8-16(3) which provides that the operator be accorded the "opportunity to request a hearing before the board...." If no hearing is requested, the Division may "...refuse, withhold, or withdraw approval of the notice of intention."

To carry out the statutory directives, the Division should advise the operator, by at least certified mail (return receipt requested), that an opportunity for a Board hearing is available along with the results of a failing to file a petition. If no petition is forthcoming, the Division may revoke the approved notice of intention and direct the operator to reclaim the site according to the reclamation plan on file. If reclamation is not commenced within the Division's stated time limits, or if reclamation is not proceeding in accord with the reclamation plan, then the Division may petition the Board for forfeiture of the surety as provided for in Utah Code Ann. §40-8-14(6).

I hope this satisfactorily addresses your concerns regarding the Silver Reef Mine. Please contact me if this matter needs my further attention.

(c) Approval may be withdrawn in the event that mining operations are continuously shut down for a period in excess of five years, unless the extended period is accepted upon application of the operator.

(3) Approval of a notice of intention may not be refused, withheld, nor withdrawn by the division until the operator, who holds or has applied for such approval, has had an opportunity to request a hearing before the board, present evidence, cross-examine, and participate fully in the proceedings. Based on the record of the hearing, the board will issue an order concerning the refusal, withholding, or withdrawal of the notice of intention. If no hearing is requested, the division may refuse, withhold, or withdraw approval of the notice of intention.

(4) In the event that the division or the board withdraws approval of a notice of intention or its revision, all mining operations included under the notice shall be suspended in accordance with procedures and schedule approved by the division.

0-8-17. RESPONSIBILITY OF OPERATOR TO COMPLY WITH APPLICABLE RULES, REGULATIONS AND ORDINANCES - INSPECTIONS

(1) The approval of a notice of intention shall not relieve the operator from responsibility to comply with all other applicable statutes, rules, regulations, and ordinances, including but not limited to, those applying to safety, air and water pollution, and public liability and property damage.

(2) As a condition of consideration and approval of a notice of intention, each applicant or operator under a notice of intention shall permit members of the board, the division, or other state agency having lawful interest in the administration of this act, to have the right, at all reasonable times, to enter the affected land and all related properties included in the notice of intention, whether or not approved, to make inspections for the purposes of this act.

40-8-18. REVISED NOTICE OF INTENTION - AMENDED NOTICE OF INTENTION - PROCEDURE

(1) In recognition that mining operations and related reclamation plans may require revision to fit changing conditions or developing technology, an operator who is conducting mining operations under an approved notice of intention may submit to the division a notice of intention to revise mining operations. This notice of intention to revise mining operations shall be submitted in the form